

**Flathead County**  
**Planning & Zoning**  
1035 1<sup>st</sup> Ave W, Kalispell, MT 59901  
Telephone 406.751.8200 Fax 406.751.8210



**PETITION FOR ZONING AMENDMENT**

*Submit this application, all required information, and appropriate fee (see current fee schedule) to the Planning & Zoning office at the address listed above.*

**FEE ATTACHED \$ 2,265.00 + 75.00**

**APPLICANT/OWNER:**

1. Name: Ray Family Trust Phone: (949)466-7777
2. Mail Address: 555 Schrade Road
3. City/State/Zip: Kalispell, MT 59901
- 4 Interest in property (if map amendment): Owner

**Check which applies:**

☒

Map Amendment

☐

Text Amendment:

**TECHNICAL/PROFESSIONAL PARTICIPANTS:**

1. Name: Sands Surveying Inc. Phone: (406) 755-6481
2. Mailing Address: 2 Village Loop
3. City, State, Zip: Kalispell, MT 59901
4. Email: eric@sandssurveying.com

**IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE TEXT OF THE ZONING REGULATIONS, PLEASE COMPLETE THE FOLLOWING:**

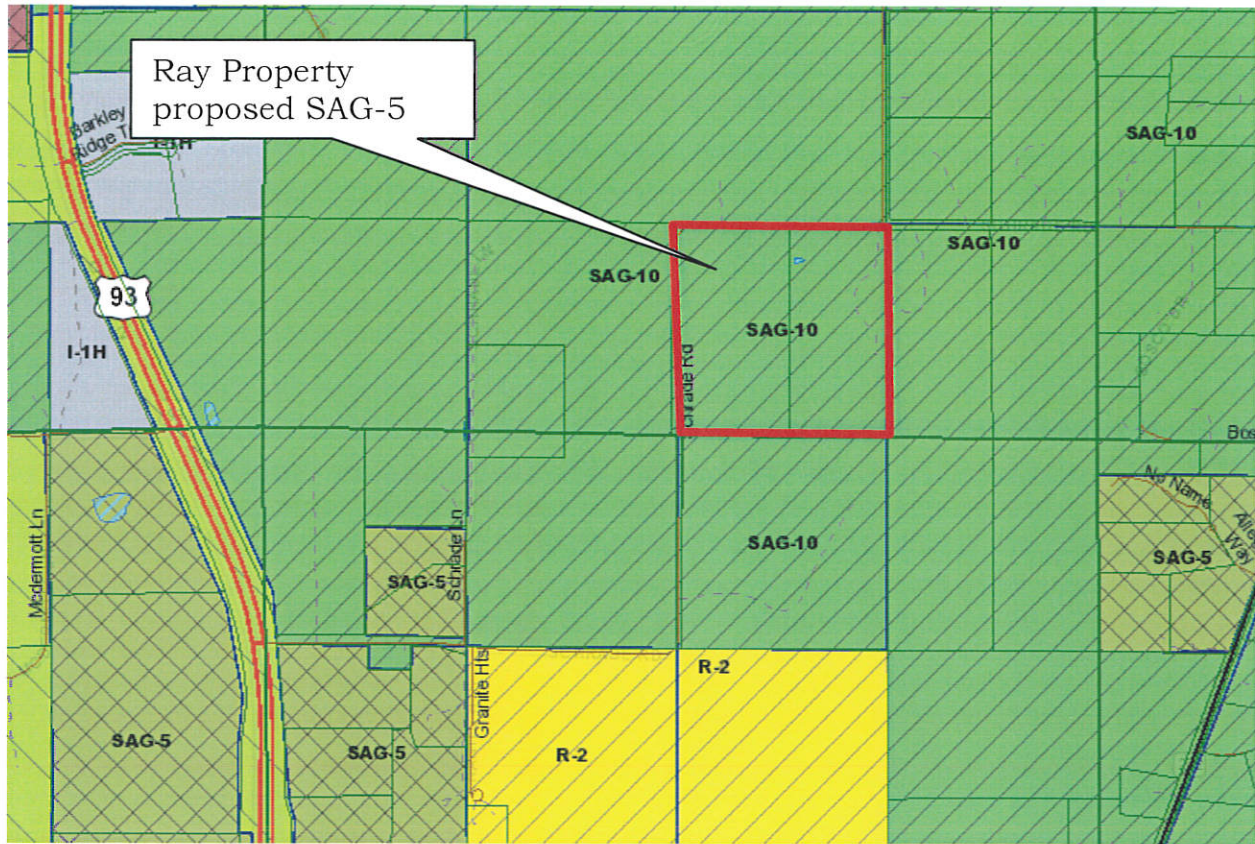
- A. What is the proposed zoning text/map amendment? N/A

**IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE ZONING MAP PLEASE COMPLETE THE FOLLOWING:**

- A. Address of the property: 555 Schrade Road, Kalispell
- B. Legal Description: Lots 1 and 2 of the Ray Subdivision (See Attached)  
(Lot/Block of Subdivision or Tract #)  
6 - T29N - R21W  
Section Township Range  
(Attach sheet for metes and bounds)
- C. Total acreage: 39.97 acres.
- D. Zoning District: Highway 93 North Zoning District
- E. The present zoning of the above property is: SAG-10 (Suburban Agricultural).
- F. The proposed zoning of the above property is: SAG-5 (Suburban Agricultural)
- G. State the changed or changing conditions that make the proposed amendment necessary: The applicant recently went through the zone change process to change the zoning on the property to SAG-10 and subsequently split the property into two lots with the Ray Subdivision. The applicant would like to

create some five acre lots on a portion of the property and is therefore requesting a zone change to SAG-5.

Figure 1



Source – Flathead County GIS

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**THE FOLLOWING ARE THE CRITERIA BY WHICH ZONING AMENDMENTS ARE REVIEWED. PLEASE PROVIDE A RESPONSE AND DETAILED EXPLANATION FOR EACH CRITERION FOR CONSIDERATION BY THE PLANNING STAFF, PLANNING BOARD, AND COMMISSIONERS.**

1. Is the proposed amendment in accordance with the Growth Policy/Neighborhood Plan?

The Rey property is located within the boundary of the Flathead County Growth Policy. The Growth Policy Map identifies the property as "Agriculture". The Flathead County Growth Policy Map is not a future land use designation map that is traditionally used with a Growth Policy but an existing land use map that generally depicts the existing zoning categories as its base. The SAG-5 (Suburban Agriculture) designation is a land use category that is consistent with and generally conforms to the "Agricultural" designation.

The Flathead County Growth Policy identifies a number of Goals and Policies that support the proposed Map Amendment.

G.2 – Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.

P.3.3 – Maintain flexibility of land use option to forest and agriculture land owners by focusing on mitigating the negative impacts of development.

G.4 – Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land use.

*Much of the surrounding property is already zoned SAG-10 but there is also SAG-5 and R-2 within a ¼ mile of the subject property.*

P.4.3.- Identify a desirable gross density for rural residential development that retains land values, preserves the agricultural character of the community and allows for efficient provision of government services (law enforcement, fire protection, transportation, etc.)

*The five acre density proposed with the Map Amendment is consistent with the suburban agricultural land use.*

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G.8 – Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.

The proposed SAG-5 will allow a density of 1 residential unit per five acres and is similar to densities along Highway 93 to the west and Whitefish Stage to the East.

2. Is the proposed amendment designed to:

a. Secure safety from fire and other dangers? The Ray property is within the West Valley Fire District. The West Valley Fire District has a Station on Whitefish Stage approximately three miles from the property. The slight increase in density, up to five additional lots, will have minimal impact on fire protection. The property is not located within the Wildland Urban Interface or High Fire Priority Area. The property is not mapped with the floodplain nor is it located on steep slopes.

b. Promote public health, public safety and the general welfare? The property has direct access to Schrade Road. Schrade is a gravel County road that provides convenient and safe access to the property. The Flathead County Sheriff's Office provides police protection and the West Valley Fire District provides fire and ambulance service to the existing and proposed residences.

The proposed SAG-5 zoning classification provides the same setback and height standards as the existing SAG-5 zone and very similar land use restrictions. The primary difference in the zoning districts is the density with the SAG-10 allowing one dwelling per 10 acres and the SAG-5 allowing one dwellings per 5 acres. The maximum density on the 39 acre site is seven lots but since ther are already two lots only fiove additional lot could be created through the subdivision process. The proposed zoning designations will continue to promote the health, safety and general welfare of the public.

c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements? The property has access to Schrade Road which is gravel, County maintained road. The Ray property currently has one residence on one lot and the other lot is



currently vacant. The proposed zone change will allow additional lots and homes the maximum of which would produce 50 additional vehicle trips per day to Schrade Road.

The existing residence is served by individual sewer and water. Any new residence would also be served by individual sewer and water service which would be subject to approval by the Flathead City County Health Department and Montana Department of Environmental Quality.

The property is within the Kalispell School District #5 (Edgerton for Grade School; Flathead Middle School for 6-8th grades, and Glacier High School for 9-12th grades. In general, larger lots, like those proposed, require less park land than urban densities with small yard areas.

3. Does the proposed amendment consider:

- a. The reasonable provision of adequate light and air? The proposed SAG-5 zoning designation has the same lot coverage of 25% and identical setbacks to the SAG-40 zoning. The proposed zoning designation should provide adequate light and air.
- b. The effect on motorized and non-motorized transportation systems? The subject parcel has direct access to Schrade Road which is a gravel standard County Road located within a 60-foot road right-of-way. As the zone change would only allow five additional residences, the impact on the road system is negligible. No public bike or pedestrian trails are located near the subject property and the road shoulders are either narrow or non-existent.
- c. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities? The subject property is located approximately 1.25 miles the City Limits of Kalispell. Kalispell has no plans to annex this area or provide services such as water, sewer, or road maintenance. The Suburban Agricultural zoning classification proposed on this property is compatible with the rural nature of the neighborhood and the neighbor Suburban Agricultural zoning.

- d. The character of the district and its peculiar suitability for particular uses? The subject parcel abuts SAG-10 zoning on all four sides but the property is within ¼ mile of other SAG-5 and R-2 zoning designations (Figures 1 and 2).

Figure 2



Source - Google Earth Image

Considering the provisions of Spot Zoning and the “Three Part Test” as provided by legal precedent in Little vs. Board of County Commissioners. Spot Zoning is determined by the Court to be an illegal action if the request is found to meet **all** three of the tests. The three tests are as follows:

- i. The zoning allows a use that differs significantly from the prevailing use in the area.

The proposed SAG-5 zoning classification provide the same setback and height standards and nearly the same lot coverage as the existing SAG-10 zone. The permitted and conditionally permitted uses are almost identical with agricultural and single family residential development being the dominant use.



- ii. The zoning applies to a small area or benefits a small number of separate landowners.

The proposed zone change encompasses 39+ acres and is adjacent to thousands of acres already zoned Suburban Agricultural.

- iii. The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and this is in the nature of special legislation.

The proposed zone change is for a single landowner however the SAG-5 and SAG-10 zoning are nearly identical except for the density. With a maximum Density of three lots on 39 acres with the SAG-10 and a Maximum of seven Lots with the SAG-5 zoning the density is really not that different.

As presented the proposed zone change application does not meet the three tests for "spot zoning" and therefore should be considered a legal request.

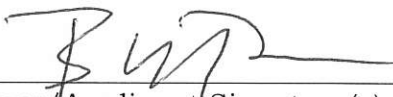
- e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area? The permitted and conditionally permitted uses of the proposed zoning designation of SAG-5 are nearly identical to that of the existing SAG-10 zoning classification. The proposed zoning also matches that of much of the neighboring zoning for use.

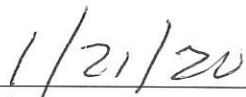
4. Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities?

The nearest City Zoning District is the Kalispell Zoning Jurisdiction, which is approximately 1.25 miles to the southwest. The City has no long range planning or zoning policies for this part of the County.

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*The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.*

  
\_\_\_\_\_  
Owner/Applicant Signature(s)

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner/Applicant Signature(s)

\_\_\_\_\_  
Date

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Date

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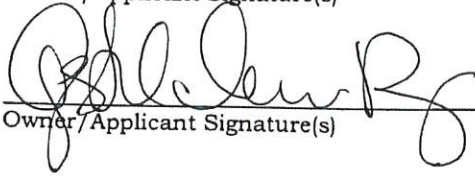


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Owner/Applicant Signature(s)

Date



1.21.2020

Owner/Applicant Signature(s)

Date

Owner/Applicant Signature(s)

Date

FEB 24 2020

## APPLICATION PROCESS

### APPLICABLE TO ALL ZONING APPLICATIONS:

A. Pre-Application Meeting:

A pre-application meeting is highly recommended. This can be scheduled at no cost by contacting the Planning & Zoning office. Among topics to be discussed are: Master Plan compatibility with the application, compatibility of proposed zone change with surrounding zoning classifications, and the application procedure.

B. Completed application.

C. Application fee.

D. The application must be accepted as complete by the Flathead County Planning & Zoning staff prior to the date of the planning board meeting at which it will be heard in order that requirements of state statutes and the zoning regulations may be fulfilled.

### APPLICABLE TO APPLICATIONS FOR ZONE CHANGE:

A. Application Contents:

1. Completed Zone Change application, including signatures of all property owners applying for zoning map amendment.

IF this is a **MAP** amendment the following are also required:

- i) A map showing the location and boundaries of the property (*vicinity map*).
- ii) A Title Report of the subject property
- iii) **Certified** Adjoining Property Owners List must be submitted with the application (*see forms below*). The list will be sent directly to the Planning & Zoning office, unless you request otherwise. This list is valid for a period of 6 months from date generated. You may also get a certified adjoining landowners list from a title company if you choose.